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2	Federal Public Defender ELLEN V. LEONIDA	
3	Assistant Federal Public Defender 450 Golden Gate Avenue, 19 th floor	
4	San Francisco, CA 94102	
5	Telephone: (415) 436-7700 Facsimile: (415) 436-7706	
6	Email: ellen_leonida@fd_org	
7	Counsel for Defendant,	
8	WILFREDO CABRERRA	
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10	FOR THE NORTHERN DISTRICT OF CALIFORNIA SAN FRANCISCO DIVISION	
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13	PLAINTIFF, DEFENDANT'S SENTENCING MEMORAN	DUM
14	V. HONORABLE WILLIAM H. ORRICK	
15	WILFREDO CABRERRA, DEFENDANT. DATE: Feb. 6, 2020 TIME: 1:30 p.m.	
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INTRODUCTION

Wilfredo Cabrerra comes before the Court for sentencing, have pled guilty to a single violation of 21 U.S.C. § 841 for selling \$17.00 worth of heroin to an undercover officer in the Tenderloin. Mr. Cabrerra is 51 years old, in poor health, and addicted to drugs himself. A sentence of credit for time served would be sufficient to achieve the goals of sentencing with respect to him.

DISCUSSION

Mr. Cabrerra should be sentenced to credit for time served. Although the advisory Sentencing Guidelines recommend a sentence between 8-14 months, this range falls within Zone B of the sentencing table. U.S.S.G. § 2D1.1, 5C1.1(e) Zone B allows for substitution of home confinement or halfway house placement for any term of custody over one month. USSG § 5C1.1(e); PSR ¶ 61. Thus, even the advisory Guidelines do not necessarily require further imprisonment for Mr. Cabrerra.¹ Consideration of the factors enumerated in 18 U.S.C. § 3553(a), further compels the conclusion that a variance from the advisory Guideline range is warranted.

When Wilfredo Cabrerra finished the sixth grade he stopped going to school because his family could no longer afford it. He started working in the fields with his father at the age of 12. At 23, he left home to come to the United State, where he worked and sent money home to his family every two weeks. Since then, he has been travelling back and forth between the United States and Honduras, where he has a wife and two grown children. Mr. Cabrerra continued sending his elderly father \$500 every month until his father died in November of 2019 (while Mr. Cabrerra was in custody for this offense). Now Mr. Cabrerra is 51 years old. He has lost his hearing in one ear and is losing his vision. Upon his release, Mr. Cabrerra will return to Honduras to be with his family and farm a small plot of land his father left him. PSR¶ 37-49, 54. His history and characteristics thus warrant a downward variance under 18 U.S.C. § 3553(a)(1).

¹ Because of his immigration status, Mr. Cabrerra cannot take advantage of either of the custody alternatives proposed by the Guidelines.

1 The nature and circumstances of this offense similarly support a variance from the 2 advisory guideline range. See 18 U.S.C. § 3553(a)(1). Mr. Cabrerra sold two bindles of heroin to 3 an undercover officer in the Tenderloin for \$17.00. PSR ¶ 6. He did so to support his own drug 4 addiction. PSR ¶ 52. Mr. Cabrerra has already been in custody for a little over four months. Once 5 he is released, he will return to Honduras, where he will have the family support to finally 6 address his addiction issues. He will not return to this country. 7 **CONCLUSION** 8 Mr. Cabrerra is 51 years old, nearly deaf, and losing his vision. Upon his release from 9 custody in this case he will be deported to Honduras, where he has a small plot of land, a wife, 10 and two grown children. A sentence of credit for time served is sufficient, but not greater than 11 necessary, to achieve the goals of 18 U.S.C. § 3553(a) in this case. 12 Dated: January 30, 2020 Respectfully submitted, 13 STEVEN G. KALAR 14 Federal Public Defender 15 16 ELLEN V. LEONIDA Assistant Federal Public Defender 17 18 19 20 21 22 23 24 25 26 27 28 CR 19-452 WHO